

APPROVED MINUTES*
SUNNYVALE CITY COUNCIL
TUESDAY, NOVEMBER 24, 2009

7 P.M. COUNCIL MEETING

CALL TO ORDER - Mayor Spitaleri called the meeting to order in the Council Chambers.

SALUTE TO THE FLAG

ROLL CALL

PRESENT:

Mayor Anthony Spitaleri
Vice Mayor Christopher Moylan
Councilmember John Howe
Councilmember Ron Swegles
Councilmember Melinda Hamilton
Councilmember David Whittum
Councilmember Dean Chu

ABSENT:

None

STAFF PRESENT:

City Manager Gary Luebbers
Assistant City Manager Robert Walker
City Attorney David Kahn
Director of Community Development Hanson Hom
Director of Public Safety Don Johnson
Director of Public Works Marvin Rose
Director of Finance Mary Bradley
City Clerk Kathleen Franco Simmons

CLOSED SESSION REPORT FOR NOVEMBER 24, 2009

Vice Mayor Moylan reported Council held a closed sessions earlier pursuant to Conference with Legal Counsel – Existing Litigation Pursuant to Government Code 54956.9(a); Sunnyvale West Neighborhood Association, et al. vs. City of Sunnyvale City Council, Santa Clara County Superior Court Case No. 108-CV-127528

Vice Mayor Moylan reported action was taken, but no direction was given.

SPECIAL ORDER OF THE DAY

Mayor Spitaleri presented the Rotary Club of Sunnyvale with a proclamation for "End Polio Now Day."

PUBLIC ANNOUNCEMENTS

City Manager Gary Luebbers presented a video from CBS news reporting Sunnyvale the "happiest place in America."

Vice Mayor Moylan announced the City is redesigning its Web site and invited residents to share their comments. Vice Mayor Moylan announced the City can be followed on Twitter at twitter.com/cityofsunnyvale.

Councilmember Whittum announced on behalf of a resident the upcoming 2009 Chancel Choir Advent Concert at the Sunnyvale Presbyterian Church.

Fred Fowler, President of Lakewood Village Neighborhood Association, announced the upcoming Lakewood Village Holiday Parade and the Lakewood Village Holiday Lighting Contest.

CONSENT CALENDAR

MOTION: Vice Mayor Moylan moved and Councilmember Swegles seconded the motion to approve the Consent Calendar.

VOTE: 7 - 0

1.A. Approval of Council Meeting Minutes of November 17, 2009

1.B. Approval of Information/Action Items – Council Directions to Staff

Fiscal Items

1.C. RTC 09-288 List of Claims and Bills Approved for Payment by the City Manager – List No. 480

Staff Recommendation: Review the attached lists of bills.

Contracts

1.D. RTC 09-293 Award of Contract for Technical Assistance for National Pollutant Discharge Elimination System (NPDES) Permit Implementation and Water Pollution Control Plant Operations Support (F0908-12)

Staff Recommendation: Award a five (5) year contract in an amount not-to-exceed \$2,370,000, to Eisenberg, Olivieri and Associates (EOA) for technical assistance for NPDES permit implementation and WPCP operations support.

Contracts: SunnyvaleWorks!

1.E. RTC 09-291 Award of Sunnyvale Works! Contract for Pond Sediment Removal and Biosolids Handling and Disposal (F0907-02)

Staff Recommendation: Award a five (5) year contract in an amount not to exceed \$10,000,000, to Synagro West, LLC, for pond sediment removal and biosolids handling and disposal at the Water Pollution Control Plant.

1.F. RTC 09-292 Award of Sunnyvale Works! Contract for the Design of a Continuous Golf Cart Path (F0911-45)

Staff Recommendation: Award a one-year contract to Knott & Linn Golf Design Group LLC in an amount not-to-exceed \$107,198 to design a continuous golf cart path for the Sunnyvale Golf Course.

Other Items

1.G. ORDINANCE No. 2910-09 Adoption of Ordinance No. 2910-09 Amending Sections 19.12.130 ("L") and 19.12.170 ("P") of Chapter 19.12 (Definitions) and Table 19.20.030 (permitted, Conditionally Permitted and Prohibited Uses in Commercial Zoning Districts) of Chapter 19.20 (Commercial Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code Pertaining to Alcohol and Advertising Signs

Staff Recommendation: Council approve the second reading of Ordinance No. 2910-09.

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

City Manager Luebbers provided a report in response to prior public comments made by a resident, Dan Hafeman regarding concerns about the Town and Country Village project. He report staff has provided a comprehensive report in the Bi-Weekly Report and the Community Development Director has contacted Mr. Hafeman.

PUBLIC COMMENTS

Fred Fowler, President of Lakewood Village Neighborhood Association, stated the process for organizing the Lakewood Holiday Parade has become more complicated and expensive since he last organized the parade 11 years ago. Fowler stated this year they have to fill out a number of forms, apply for a special permit, and enter into a service agreement with the Department of Public Safety. Fowler stated it will cost approximately \$1,000 to put on the parade this year. Fowler asked that interested persons who wish to make contributions toward the cost of the parade to contact him.

Chris York expressed concerns regarding the number of RVs and trailers parked on streets on a permanent basis and asked Council to sponsor an ordinance prohibiting use of public streets for parking trailers and recreational vehicles.

Councilmember Swegles inquired whether the City has signs prohibiting parking vehicles over six feet in height on the street. Director of Public Works Marvin Rose confirmed the City has these types of signs, but they are used sparingly, typically at intersection where there are visibility problems. He indicated they are not very effective. Director Rose provided information regarding the procedure for handling these types of complaints.

Vice Mayor Moylan inquired as to the City's authority to limit the types of licensed vehicles parked on City streets. Director Rose confirmed that if the vehicles have current registration they have the right to park anywhere it's legal to park in the City as long as they don't stand for more than 72 hours.

Councilmember Howe inquired as to the parking ordinance requirement to move a vehicle every 72 hours and whether it is correct that the odometer must show that it is increased by one mile to show, or that it is considered to not have moved if there is no readable odometer. Director of Public Safety Don Johnson confirmed and provided further information regarding the procedural determination that a vehicle or trailer has been moved.

Councilmember Hamilton requested further information to be provided in the City Manager Bi-Weekly Report as to how staff would propose to solve this problem.

PUBLIC HEARINGS/GENERAL BUSINESS

2. ORDINANCE Sunnyvale Municipal Code Chapters 18.10 and 19.74 Relating to RTC 09-294 Park Dedication: Consider Raising the Park Facility Standard from 1.25 Acres per 1,000 Population to 3.0 Acres per 1,000 Population

Jenny Shain, Part-time Manager, Department of Community Services provided the staff report.

Councilmember Howe inquired about page six of the report, under Fiscal Impact, regarding the in-lieu fee calculated based on a formula and adopted annually with the City's fee schedule. Councilmember Howe stated this calculates to \$4.3 or \$4.5 million per acre, which he stated is very expensive. He inquired if staff knows if the City of Palo Alto utilizes \$3.2 million per acre.

Part-time Manager Shain deferred to the Community Development Director regarding the calculation of fees. Part-time Manager Shain stated the report proposes no change to how the value of the land would be calculated for the in-lieu fee; the proposed change is the amount of land that would be used as the equivalent. Councilmember Howe commented that if the amount of land to be put into parks is being increased, and the valuation is relatively high valuation compared to the surrounding cities, the in-lieu fee would be higher than the surrounding cities. Director of Community Development Hanson Hom stated the \$4 million will most closely reflect the recent market value for residential land.

Councilmember Howe inquired about how the in-lieu fee cost per unit per square foot compares to surrounding cities that charge a park dedication fee. Part-time Manager Shain stated staff did not research that information as part of this report. Councilmember Howe expressed concerns about the fees being competitive with the surrounding area.

Part-time Manager Shain stated that the approach of the in-lieu fee is to provide for the City to purchase the equivalent amount of land that would have been put aside if the land had been extracted, and it is intended to fully cover the full cost of purchasing that equivalent amount of land.

Councilmember Whittum stated the City of Palo Alto recommended a standard in 2008 of five acres per 1,000 and \$3.9 million per acre.

Councilmember Whittum inquired whether the information on page 3 of Attachment A under the land requirement belongs in the ordinance or in the General Plan. Councilmember Whittum stated the planning areas should be defined where all of the other planning areas are defined. Part-time Manager Shain stated the language is the language used in the existing ordinance and is unchanged. She stated when the issue was discussed in July, Council also endorsed the idea of looking at the ordinances more closely and doing more than just the increase in the facility standard.

Councilmember Whittum clarified in relation to Councilmember Howe's question that in a report online City of Palo Alto staff recommended five acres per 1,000 at \$3.9 million per acre in 2008, which would be more than what is proposed with this amendment.

Public Hearing opened at 7:37 p.m.

Speakers: None

Public hearing closed at 7:37 p.m.

MOTION: Vice Mayor Moylan moved and Councilmember Whittum seconded the motion to approve:

- Alternative No. 1: Council adopt the attached amendments to City Municipal Code Title 18 (Subdivisions) Chapter 18.10, Parks and Open Space Dedication, raising the facility standard from the existing standard of 1.25 acres per 1,000 to 3.0 acres per 1,000 over three years.
- Alternative No. 2: Council adopt the attached amendments to City Municipal Code Title 19 (Zoning) Chapter 19.74, Park Dedication Fees for Rental Housing Projects, raising the facility standard from the existing standard of 1.25 acres per 1,000 additional residents to 3.0 acres per 1,000 over three years.

Councilmember Howe stated the goal is laudable but we're faced with one of the biggest recessions we've ever had, and we're phasing in additional fees when we're trying to provide housing and do a housing/jobs balance. Councilmember Howe stated phasing it in under this schedule, which he believes is closer to 18 months than three years, we're handicapping the developers and consequently the individuals trying to buy houses in our community. Councilmember Howe stated he would not support the ordinance.

Vice Mayor Moylan stated staff has carried out the direction given in July, and he does not think the issue should be rehashed at this point. Vice Mayor Moylan stated there is a trade-off between making the situation as economically convenient for developers as possible, and mitigating our deficiency in open space. The idea that we should be competitive with other cities is good, it's in our fiscal policy, and in this case we're way below the other cities in the dedication requirement, therefore, even after we move up to three we'll still be

competitive with other cities. He stated we're never going to put ourselves in a position where it becomes more onerous to do something in Sunnyvale than it is anywhere else.

Councilmember Whittum spoke in support of the motion. He stated he thinks it's a good measure and wishes it was changed to three acres right away. He stated there was discussion about raising it to five acres, which is more typical and still below our standard, but he hopes Council will support the measure because he thinks it's a step in the right direction and makes for better quality housing. Councilmember Whittum commented that in terms of the cost of housing, there are actually some very affordable homes in North Sunnyvale right now.

City Clerk Kathleen Franco Simmons read the ordinance for the record.

VOTE: 6 - 1 (Councilmember Howe dissented)

**3. RESOLUTION Amendment of General Plan Open Space and Recreation Sub-
RTC 09-287 Element to Incorporate New Policies Identified During Parks of the
Future Study – Resolution and General Plan Amendment**

Jenny Shain, Part-time Manager, Department of Community Services provided the staff report.

Public Hearing opened at 7:42 p.m.

Speakers: None

Public hearing closed at 7:42 p.m.

MOTION: Vice Mayor Moylan moved and Councilmember Hamilton seconded the motion to approve Alternative No. 1: Approve the resolution enacting a General Plan Amendment to add five policies identified through the Parks of the Future Study to the Open Space and Recreation Sub-Element of the General Plan.

Vice Mayor Moylan stated staff is simply carrying out the decision made last July.

VOTE: 7 – 0

**COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE
ASSIGNMENTS**

Vice Mayor Moylan provided an update on the Stevens Creek Trail issue. He stated the four-city committee met and agreed to jointly prepare an application for a grant to pay for a feasibility study for possible extension of the Stevens Creek Trail beyond its existing planned terminus in Mountain View. Moylan stated Sunnyvale agreed to be the lead agency; Transportation and Traffic Manager Jack Witthaus will prepare the draft and circulate it to the cities of Mountain View, Los Altos and Cupertino. Vice Mayor Moylan stated the funding will allow us to look at more alternatives, the possible environmental consequences, the possible traffic and transportation consequences, and be able to ask the citizens what they want to do.

Vice Mayor Moylan reported the subcommittee that was charged to bring alternatives to Council on whether or not to add any statement to the General Plan to replace the one struck regarding the Stevens Creek Trail in Sunnyvale, met this week and is working on a document to bring back to Council by the end of the calendar year.

Councilmember Swegles provided information regarding an upcoming meeting of Protect Local Control and Funding for Vital Local Services.

Councilmember Swegles provided information regarding a recent strategic planning workshop for presidents of the League of California Cities. He stated three strategic goals were set up: protect our local control and funding for vital local services, support reform of the structure, governance, management and financing of the State government, and promote economic stimulus infrastructure investments, business development and job creation. Councilmember Swegles stated presentations will be made to all cities regarding the local control measure which is going to be on the ballot. Councilmember Swegles confirmed with City Manager Luebbers that a presentation will be scheduled for Sunnyvale in January.

Councilmember Swegles reminded Council regarding an upcoming reception for newly elected and re-elected local government officials January 28 at Mountain View City Hall.

Councilmember Hamilton provided information regarding the Turkey Trot event Thanksgiving Day in San Jose and encouraged Council and staff to attend.

Vice Mayor Moylan provided an update on the election that the north cities will have for the VTA Board. Vice Mayor Moylan stated that four of the six cities have decided whom they are nominating for the VTA Board: Sunnyvale has nominated him, Mountain View has nominated Mayor Margaret Abe-Koga; Los Altos Hills has nominated Rich Larsen; and Los Altos is not going to nominate anyone. Los Altos will vote, but they are not going to nominate anybody. Santa Clara and Palo Alto have not yet decided.

NON-AGENDA ITEMS & COMMENTS

COUNCIL: Councilmember Howe stated that new County Supervisor Dave Cortese has been in office for about a year and Council has not met with him during that period of time. Councilmember Howe moved and Councilmember Whittum seconded the motion to hold a joint study session with Dave Cortese and Council on December 1st, 8th, 15th, or January 5th.

VOTE: 7 – 0

Councilmember Howe asked Mayor Spitaleri to work with the City Attorney to include the Councilmember-Elect on the meeting with County Supervisor Cortese. Mayor Spitaleri confirmed it would be an open meeting.

STAFF: None.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- Draft Minutes of the Heritage Preservation Commission Meeting of November 4, 2009
- RTC 09-295 Opportunity for Council to appeal decisions of the Planning Commission of November 9, 2009

ADJOURNMENT

Mayor Spitaleri adjourned the meeting at 7:55 p.m.

Kathleen Franco Simmons
City Clerk

Date